

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

HOWARD DELACRUZ-BANCROFT,

Plaintiff,

v.

Case No. 1:23-CV-00023-JB-KK

FIELD NATION, LLC; SPARTAN  
COMPUTER SERVICES/NATIONAL  
SERVICE CENTER; AND  
JACK IN THE BOX INC.,

Defendants.

**DEFENDANT FIELD NATION, LLC'S RESPONSE TO PLAINTIFF'S REQUEST FOR  
ADDITIONAL TIME TO RESPOND TO DEFENDANT'S MOTION TO DISMISS AND  
MOTION TO COMPEL ARBITRATION**

COMES NOW, Defendant Field Nation, LLC, by and through its counsel of record, Littler Mendelson, P.C. (Jay J. Athey and R. Shawn Oller), hereby submits its Response to Plaintiff's Request for Additional Time to Respond to Defendant's Motion to Dismiss and Motion to Compel Arbitration (Doc. 33), as follows:

1. Defendant Field Nation, LLC ("Field Nation") filed its Motion to Compel Arbitration and to Dismiss Plaintiff's Claims ("Motion") on March 24, 2023. Doc. 23. Defendant's Motion was served on Plaintiff via the email listed in Plaintiff's latest pleading. *See* Doc. 33, at 2, ¶ 6.

2. Plaintiff's deadline to respond to Field Nation's Motion was April 7, 2023. *See* D.N.M.LR-Civ. 7.4(a).

3. Plaintiff did not file a Response to Field Nation's Motion. *See* Docket, generally.

4. Field Nation filed its Reply in Support of its Motion on April 27, 2023. Doc. 28.

5. Field Nation filed its Notice of Completion of Briefing on April 28, 2023, indicating the Motion was ripe for decision. Doc. 29.

6. Plaintiff's request for extension, if any, was required on or before April 7, 2023. *See* D.N.M.LR-Civ. 7.4(a) (party seeking an extension must file a separate motion within the prescribed time period for response).

7. Plaintiff failed to file a response or otherwise request an extension within the time period required by the Local Rules, which constituted consent on behalf of Plaintiff for the Court to grant Defendant Field Nation's Motion to Compel Arbitration and to Dismiss. *See* D.N.M.LR-Civ. 7.1(b).

8. Further, Plaintiff failed to comply with the Court's deadline of February 2, 2024 to respond to the Order to Show Cause. Docs. 32 & 33.

9. Plaintiff has consented to Defendant's Motion to Compel Arbitration, failed to comply with this Court's Order to Show Cause, and otherwise failed to make a showing of good cause that would justify Plaintiff's failure to respond to Defendant's Motion for ten months.

WHEREFORE, Defendant Field Nation, LLC requests the Court deny Plaintiff's request for additional time to respond to Field Nation's Motion to Compel Arbitration and to Dismiss, and grant any additional relief the Court deems necessary and proper.

Respectfully submitted this 7th day of February 2024.

LITTLER MENDELSON, P.C.



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I hereby certify that, on this 7th day of February 2024, I filed the foregoing using CM/ECF, which caused service by electronic means on Plaintiff and all counsel of record as follows:

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